

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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HARVEY McDANIELS,

Petitioner,

v.

NEVADA DEPT. OF CORRECTIONS,

Respondents.

Case No. 3:20-cv-00623-LRH-CLB

ORDER

Petitioner, a Nevada prisoner, has submitted a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. ECF No. 1. Petitioner has not filed an application to proceed *in forma pauperis* or paid the filing fee. Accordingly, this matter has not been properly commenced. 28 U.S.C. § 1915(a)(2) and Local Rules LSR 1-1, 1-2. In addition, the petition is not on the form provided by this court. Local Rule, LSR 3-1.

Thus, the present action will be dismissed without prejudice to the filing of a habeas petition pursuant to 28 U.S.C. § 2254 on the form required by this court in a new action with either the \$5.00 filing fee or a completed application to proceed *in forma pauperis* on the proper form with both an inmate account statement for the past six months and a properly executed financial certificate.

IT IS THEREFORE ORDERED that this action is dismissed without prejudice to the filing of a petition in a **new** action with either the \$5.00 filing fee or a properly completed application form to proceed *in forma pauperis*.

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1 IT IS FURTHER ORDERED that a certificate of appealability is denied, as jurists
2 of reason would not find the court's dismissal of this improperly commenced action
3 without prejudice to be debatable or incorrect.

4 IT IS FURTHER ORDERED that the Clerk shall send petitioner two copies each
5 of an application form to proceed *in forma pauperis* for incarcerated persons and a
6 noncapital Section 2254 habeas petition form, one copy of the instructions for each
7 form, and a copy of the papers that he submitted in this action.

8 IT IS FURTHER ORDERED that the Clerk shall enter judgment accordingly and
9 close this case.

10 DATED this 19th day of November, 2020.

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13 LARRY R. HICKS
14 UNITED STATES DISTRICT JUDGE
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